

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BARRY SCHMITTOU,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:05-0013
)	Judge Trauger
METROPOLITAN LIFE INSURANCE)	
COMPANY and TMG SOLUTIONS, INC.,)	
doing business as Mosaic Sales Solutions,)	
)	
Defendants.)	

MEMORANDUM and ORDER

On May 27, 2005, the Magistrate Judge issued a Report and Recommendation, recommending that the defendants' Motion to Dismiss the plaintiff's civil rights claims (Docket No. 14) be granted. (Docket No. 20) The plaintiff has filed an Objection (Docket No. 29), and the defendants have responded to the objection. (Docket No. 31)

This court must make a *de novo* determination as to the merit of any specific objection to the Report and Recommendation made by the plaintiff. Rule 72(b), FED. R. CIV. P.; 28 U.S.C. § 636(b)(1)(C). The plaintiff has made no objection as to the recommendation to dismiss his claims under 42 U.S.C. § 1983 for failure to allege actions by the defendants under color of state law. Therefore, that recommendation will be accepted.

The plaintiff objects to the dismissal of his claim under 42 U.S.C. § 1985(3) on the ground that the amended complaint that he seeks to file sufficiently alleges a conspiracy based on an intent to discriminate due to class-based animus. He makes no specific objection to the ruling by the Magistrate Judge that his original Complaint fails to do so, but merely asserts that

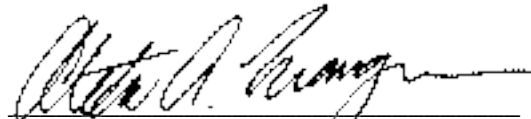
his original response made meritorious arguments. This is not a specific objection to the Magistrate Judge's ruling that can be reviewed. The Objection, therefore, is without merit and is hereby **OVERRULED**.

The Report and Recommendation (Docket No. 20) is **ACCEPTED** and made the findings of fact and conclusions of law of this court. For the reasons expressed therein, the plaintiff's claims under 42 U.S.C. § 1983 and 42 U.S.C. § 1985(3), as contained within the original Complaint (Docket No. 1), are **DISMISSED**.

The plaintiff has filed a Motion to Amend (Docket No. 27) in an effort to cure the deficiencies in his allegations under 42 U.S.C. § 1985(3). (Docket No. 27) This motion will be ruled upon by the Magistrate Judge, to whom this case is **RE-REFERRED** under the original referral Order.

It is so **ORDERED**.

ENTER this 5th day of October 2005.


Aleta A. Trauger
U.S. District Judge